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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 JUAN CAMACHO,

12 Plaintiff,

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14 vs.
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17 WINDSOR CAPITAL MORTGAGE
18 CORP., et al.,

19 Defendants.
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CASE NO. 10-CV-502 W (BLM)

ORDER:

1) REMANDING THIS
LAWSUIT TO SAN DIEGO
SUPERIOR COURT

2) DENYING DEFENDANTS'
MOTION TO DISMISS AS
MOOT (Doc. No. 7.)

3) DENYING PLAINTIFF'S
MOTION TO REMAND AS
MOOT (Doc. No. 8.)

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22 On June 10, 2010, Defendants Countrywide Home Loans, Inc., Bank of America
23 Corporation, and ReconTrust Company, N.A. ("Defendants") moved to dismiss Plaintiff
24 Juan Camacho's ("Plaintiff") complaint pursuant to Federal Rule of Civil Procedure
25 12(b)(6). In reviewing that motion, the Court discovered that it no longer possesses
26 subject matter jurisdiction over this lawsuit.

27 For the reasons stated below, the Court **REMANDS** this case to San Diego
28 Superior Court.

1 **I. BACKGROUND**

2 Plaintiff, along with his wife, is an equitable owner of a property located at 304
3 Cananea Street, Vista, California 92084. (the "Property") Defendants are a collection
4 of financial institutions that have been, or are currently, involved with the mortgage on
5 the Property.

6 On or about September 10, 2004, Plaintiff refinanced the mortgage on the
7 Property with an adjustable rate mortgage ("ARM"). At some point, Plaintiff began
8 having difficulty making payments on his mortgage. Plaintiff asserts that he is in
9 imminent danger of losing the Property in a foreclosure proceeding.

10 On February 8, 2010, Plaintiff filed a lawsuit in San Diego Superior Court. (Doc.
11 No. 1.) On March 9, 2010, Defendants removed the action to this Court and then filed
12 a motion to dismiss. (*Id.*, Doc. No. 4.)

13 On May 24, 2010, Plaintiff filed a First Amended Complaint. (Doc. No. 5.) In
14 response, the Court denied the pending motion to dismiss as moot. (Doc. No. 6.) On
15 June 10, 2010, Defendants filed a motion to dismiss the FAC. (Doc. No. 7.)

16 Defendants motion was set to be heard July 26, 2010. On July 7, 2010, Plaintiff
17 filed a motion to remand this lawsuit to San Diego Superior Court. That motion was
18 set to be heard August 16, 2010. (Doc. No. 8.)

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20 **II. DISCUSSION**

21 This lawsuit was properly removed from state court due to the claims arising
22 under federal laws. (Doc. No. 1 ¶ 5.) As mentioned above, Plaintiff has since filed a
23 First Amended Complaint ("FAC"). The pending motion to dismiss caused the Court
24 to review the FAC. The FAC does not include *any* federal causes of action. (See also
25 Doc. No. 7 at 3 (where Defendants explain that Plaintiff has dismissed his claims
26 involving the Truth In Lending Act ("TILA")). As a result, this Court no longer
27 possesses original jurisdiction over this lawsuit.

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1 A district court has discretion as to whether it will exercise supplemental
2 jurisdiction over a claim when all claims over which it has original jurisdiction have
3 been dismissed. See 28 U.S.C. § 1367(c)(3). The Court does not believe exercising
4 supplemental jurisdiction is warranted. This case should be remanded before litigation
5 truly commences.

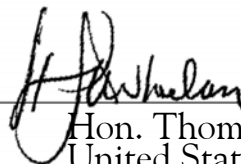
6 Accordingly, the Court **REMANDS** this case to state court pursuant to 28
7 U.S.C. § 1447(c).

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9 **III. CONCLUSION**

10 For the reasons stated above, this case is hereby **REMANDED** to San Diego
11 County Superior Court pursuant to 28 U.S.C. §§ 1367(c)(3) and 1447(c). Defendants'
12 motion to dismiss is **DENIED WITHOUT PREJUDICE** as moot. (Doc. No. 7.)
13 Plaintiff's motion to remand is also **DENIED** as moot. (Doc. No. 8.) The clerk shall
14 mail a certified copy of this Order to the state court.

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16 **IT IS SO ORDERED.**

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18 DATED: July 23, 2010

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21 Hon. Thomas J. Whelan
22 United States District Judge
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